IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15857 of 2004

Between:

G. Uma Maheswara Rao, S/o. of Ammaiah,
R/o. Ameerpet, Hyderabad.

..... PETITIONER

AND

1 The Station House Officer, Khammam Rural Police Station, Khammam District.
2 The Superintendent of Police, Khammam, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in not completing the investigation and not filing the Charge Sheet within prescribed time under Section 468 of Cr.P.C. in Crime No. 356/2002 of Khammam Rural Police Station, Khammam, as bad, arbitrary, illegal and quash the same.

Counsel for the Petitioner : MR. C.DAMODHAR REDDY

Counsel for the Respondents : GP FOR HOME

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.15857 OF 2004

ORAL ORDER :

This writ petition is filed to quash the FIR in Cr.No.356 of 2002 on the file of the Khammam Rural P.S. registered against the petitioner on the ground that the first respondent – Station House Officer, Khammam Rural Police Station, failed to complete the investigation within the time stipulated under the provisions of the Code of Criminal Procedure.

The petitioner claims to be owner of the Bus bearing No.KA-01-A 5959 registered with the R.T.O., Central Office, Khairatabad, Hyderabad. On 26-08-2002 the said vehicle was seized by the Assistant Motor Vehicles Inspector, Khammam, during the routine check conducted at Warangal Crossroads, Khammam, since the vehicle was

plying without possessing the Registration Certificate and other necessary documents. It was also found that the vehicle was bearing a temporary number as 'AP 16 TT 4000'. Basing on the report of the Assistant Motor Vehicles Inspector, Khammam, the Station House Officer, II Town P.S. registered a case in Cr.No.260/2002 under Section 102 of the Code of Criminal Procedure on 13-09-2002 and the investigation was taken up. Thereafter, on 5-10-2002 the case file was transferred to the first respondent on the point of jurisdiction since the Warangal Cross-roads, Khammam falls under the jurisdiction of Khammam Rural P.S. In pursuance thereof, the first respondent re-registered the case on 31-12-2002 as Cr.No.356 of 2002 under Section 420 of the Indian Penal Code and Sections 182, 182-A, 192, 192-A and 196 of the Motor Vehicles Act against the owner of the bus and others. The seized bus was produced before the II-Addl. Judicial First Class Magistrate, Khammam and on an application made by the petitioner, he was granted the interim custody on furnishing surety and also depositing the pattedar pass books of the lands and also the RC book of the vehicle.

The petitioner alleges that thereafter there is no progress in the case and the investigation has not yet been completed. Even the driver who was absconding nor any other person responsible for the alleged offence has been arrested. Hence, this writ petition contending *inter alia* that since the respondents failed to complete the investigation within the period of six months as provided under Section 468 (2)(a) of the Code of Criminal Procedure, the case is liable to be quashed. It is also contended that since all the documents found to be in order and even the Chassis and Engine numbers tallied with the RC Book produced by the petitioner, the offence under Section 420 of the Indian Penal Code does not attract and since the other offences alleged under the Motor Vehicles Act are all compoundable, there is absolutely no justifiable reason to keep the investigation pending. The petitioner also pleads that in view of the pendency of the case, the original RC Book and the pattedar pass books deposited by the petitioner while obtaining the interim custody of the vehicle have not been returned so far resulting in undue hardship to him.

On behalf of the respondents, the Station House Officer, Khammam Rural P.S. filed a counter-affidavit stating that Cr.No.356 of 2002 was registered on 31-12-2002 on transfer of case from Khammam II Town P.S. and that the investigation has been

taken up by the Sub-Inspector of Police, Khammam Rural P.S. During the course of the investigation, the Sub-Inspector of Police deputed the Head Constable on 20-10-2003, 25-11-2003, 26-11-2003, 20-03-2004, 21-03-2004, and 20-07-2004 to secure the presence of the owner of the vehicle. But, the owner of the vehicle was not available and he has been successfully evading the Police and not co-operating with the investigation. The Police have been making sincere efforts to secure the presence of the owner of the vehicle for examination, and even Sri Amarchand, Advocate, Khammam who filed criminal petition in the lower Court has promised on 20-07-2004 to produce the owner of the vehicle for examination within 10 days. But, so far he has not been produced and consequently the investigation could not be completed. There are no lapses on the part of the Police, but it is only due to non-cooperation of the petitioner, the investigation could not be completed so far.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents and perused the material on record.

The law is well settled that quashing of FIR can be done under Article 226 of the Constitution of India only when the investigation is found to be mala fide or where the allegations in the complaint taken on their face value do not make out any case for investigation (vide STATE OF HARYANA vs. BHAJAN LAL}.

In the case on hand, the report of the Regional Transport Officer, Khammam dated 09-09-2002, on the basis of which the FIR was registered initially by the II Town PS, Khammam and subsequently by the SHO, Khammam Rural P.S. shows that the vehicle was seized on the night of 26-08-2002 during the normal course of checking at Warangal Crossroads, Khammam since it was found that the vehicle was plying without registration certificate, fitness certificate, permit, insurance certificate and driving licence. The proof of A.P. State Tax was also not produced. The Xerox copy of the registration certificate do not tally with Chassis and Engine Numbers of the vehicle. The vehicle was bearing Regn. No.AP 16 TT 4000 which was pasted on the vehicle with a sticker. On verification, it was found that no vehicle was registered with the said registration number, and the said number was reserved in favour of one Sri V.Gandhi of Vijayawada. Thus, it was opined that the vehicle

might be a theft one and the owner of the vehicle forged the registration certificate and manipulated the number plate. May be that, subsequently, the petitioner claimed that he is the owner of the vehicle and produced the registration certificate bearing No.KA 01 A 5959 which tallied with the Engine and Chassis Numbers of the vehicle in question and obtained the interim custody of the vehicle. But, even before the investigation is completed, it cannot be presumed that the complaint does not make out an offence under Section 420 of the Indian Penal Code. It is not permissible for this Court, while exercising the jurisdiction under Article 226 of the Constitution of India, to decide the disputed questions of fact even before the investigation is completed.

Once, it is held that the action of the respondents in registering the case under Section 420 of the Indian Penal Code does not warrant any interference by this Court at this stage, the contention of the petitioner that the prosecution is barred by limitation, under Section 468 of the Code of Criminal Procedure, does not carry any weight since the limitation prescribed under Section 468 of Cr.P.C. is applicable only to offences punishable with imprisonment not exceeding three years.

It is also relevant to note that the specific case of the respondents is that since the petitioner, who is the owner of the vehicle is not co-operating, the investigation has not been completed so far.

The petitioner filed an affidavit in reply disputing the said version of the respondents. Be that as it may, as already expressed above, since no ground is made out which warrants interference of this Court with the investigation, the only relief that can be granted is to direct the respondents to complete the investigation expeditiously and to take necessary further steps in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs.

17th November, 2004.

gbs

To

1 The Station House Officer, Khammam Rural Police Station, Khammam District.
2 The Superintendent of Police, Khammam, Khammam District.

3.2CCs to G.P. for Home, High Court of AP Bldgs, Hyderabad (OUT).

4.2CD copies